

**TOWN OF CHATHAM
JANUARY 28, 2010**

**ZONING BOARD OF APPEALS
FINAL COPY**

MEMBERS PRESENT:

Kary Jablonka
Robert Leary
JP Henkel
Mitchell Khosrova
David Everett, Chairman
Jeff Lick
Adrian Ooms

MEMBERS ABSENT:

None

Public Present:

Fran Heany	Mike Behrens
Abby Behrens	Ryan Behrens
Michael J. Behrens	Oliver Grannis
Marc Jackson	Kristen Wogen
Anita Cartin	Warner Collins
Seth Lachterman	G.(?) Reznikoff
Howard Reznikoff	Robin Blass
Chester L. Blass	Liza Corsillo
Phoebe Lasky	Jonathon Tenace
Patricia Tenace	Pam Katz
Barbara Nagler	Joan Bloomberg
Bill Behrens	Nathan Behrens
Courtney McDonnell	Megan Kane
Judith C. Luhmann	
Several others	

The January 28, 2010, Zoning Board of Appeals meeting was called to order by Chairman David Everett at 7:00PM. The Pledge of Allegiance was recited. Mitchell Khosrova moved and Bob Leary seconded that the minutes from the previous meeting be accepted. This carried.

**PS/21- REQUEST FOR A MODIFICATION TO THEIR SPECIAL USE
PERMIT WHICH WOULD ALLOW THE TENT TO BECOME A PERMANENT
PART OF THE FACILITY PUBLIC HEARING**

The Public Hearing was opened at 7:01PM. Chairman Everett announced that the procedure to follow would be: an opening statement by the applicant, Board questions and comments, open to the public for comments. During this phase, those speaking are to identify who they are and where they live. Respect for everyone's opinion was requested, and all comments are to be directed to the Board. Chairman Everett read a letter from Code Enforcement Officer Walt Simonsmeier indicating that no complaints were received by his office during 2009. A letter from the County Planning Board was also read, which suggested approval of this unique project. 126 pieces of correspondence from the public indicating support of the request and 8 indicating disapproval of the project have been received and are available under FOIL for the public to see.

Scott Longstreet, the attorney for the applicant, reviewed that the Special Use Permit was approved in 2005 for both the tent and the permanent facility with limitations in place. The past 4 years the economy has been grim, all grants have dried up and the \$11million plus that is needed for the permanent building is not available. If the ZBA does not approve the tent, PS/21 will be gone. It has been demonstrated that noise is not a problem, and there are no new impacts inherent with this request, nor will any of the impacts change, despite the fact that the sound will not be enclosed in a building. This is a first class performing arts haven which satisfies all the criteria placed. Should this not be approved there could be far greater impacts from this 107-acre parcel, which could become a 20-lot subdivision. Mitchell Khosrova wondered about the dimensions of the tent and the durability of it. Mr. Longstreet stated that the frame will last a lifetime, but a new skin may be needed. The configuration would remain the same. The tent seats 300. Bob Leary wondered how many events were held in 2009. Between 45-50 events were held. There was a question as to whether the goal was to hold more events in the future. No, but the goal is to have the best possible season. There would not be performances at the tent and the permanent structure at the same time, once the building is in place. JP Henkel wondered about plans for replacing the skin of the tent. So far this hasn't been needed, and they expect it to last quite awhile. Renting out the facility to third parties for ancillary use was reviewed. It was pointed out that all restrictions must be followed for third party users. Mr. Longstreet reiterated that all that is being asked is to allow the use of the tent to continue.

The Public comment portion began.

Larry Salzman said that he joined PS/21 and has attended many events. The only noise that is disturbing is the trains. This is a wonderful addition to the area appreciated by the hundreds to thousands who come out for all the different programs. PS/21 is an asset both culturally and economically to the area.

Colleen Safford stated that she supports the arts but does not support this project. She said that complaints were made about the noise this past year to the sheriff. She questions the lack of negligible impact. The neighbors have voiced complaints for 5 years. This is intrusive; it is noise. This past season featured 26 back to back performances. She questioned the comment that PS/21 provides a positive impact for Chatham. She spoke with 7 businesses in the Town and 7 out of 7 claims they have not been impacted by PS/21's presence. No fund raising has been planned, and they are now leaning on the economic downturn as the reason for their lack of raising funds. There has not been a lot of local support. Where there once were limits, now there are none. (This was

later refuted.) There may be up to 4 evening events a week during the season plus 40 matinee performances. There are no restrictions on non-amplified programs only.) The neighbors have known since 2008 that this would happen. Now all protections for the neighbors have been stripped away. PS/21 negatively impacts their lives. This is an inappropriate space for this facility. Chairman Everett told the audience that if there was a problem, the Town has to be notified so that the random sound testing, which is part of the agreement, can be initiated. The restrictions placed on PS/21 for noise is more restrictive than the Town standard.

Terry Lasky stated that there has been no relief from the noise. The promise was to allow this for 5 years, and after 5 years the tent would be finished. The ZBA must enforce its own ruling.

Seth Lachterman, who is part of the Walking the Dog Theater, uses the PS/21 space, and it has helped both PS/21 and the theater. He knows that the community has been impacted positively, as he personally took many people to the restaurants in town. This has been an economic draw. People from other than Chatham use the facility. His biggest gripe is the sound projection---you can only hear if you are in the front of the tent.

Mitchell Khosrova asked Mr. Lasky to explain the impacts of PS/21 to him. Mr. Lasky stated that his wife is very sensitive to the sound frequencies which are heard constantly during a performance. Mrs. Lasky added that when she is on her porch reading or listening to the radio the noise is continually coming in and out to the degree that she can't listen to the radio or focus on the book. Sometimes she has to close up the house and turn on the air conditioning because of the constant thrumming sound. She added that she loves culture, and that an enclosed building would be perfect for acoustics. She wants things to be as promised, and that the plan that was improved be followed. If the building hasn't materialized, that is too bad.

Lee Smith said that he lives in Old Chatham and can hear the Thruway all the time, but that he chooses not to hear it. He supports this endeavor.

Pamela Katz said that this has been ongoing, and the neighbors are continuously losing. She already knows that a modification for acoustics will be coming next.

John Trevellyan said that there has been no negative impact on his life. Some deal with it. He is not surprised that the neighbors are frustrated.

He suggested that a way to mitigate this might be to attend the performances to help balance things for them.

Ryan Behrens said that he supports the arts, but can't afford to come to all these performances as he has other expenses.

Barbara Nagler added her support. She said that PS/21 has added to the community and is an asset.

Howard Reznikoff feels it's a terrific place and that as a neighbor it is not a big problem.

Mike Behrens said that sound projects differently. It comes in and out, like a bad radio station, which is not pleasant, particularly late in the evening. He'd rather hear the natural sounds. A train going through lasts one to two minutes, while with the concerts they last 3-4 hours a day. The tent is on top of the hill and the sound comes down into the valley. He expects the Board to live up to the agreement. He supports the 5 year window that was granted.

John Tenace lives on White Mills Rd. and talked about the 5 year plan. PS/21 hasn't done what it has promised. He hears the sound occasionally. He stated that as president of the CHS student council, the school will not partner with PS/21.

Oliver Grannis said that he is from Germany and impressed with the cultural availability found here. He lives in the middle of the Town. He can hear the noises from athletic events, which is part of the life here. People in the village have an awareness of sounds and irritations of life that this group living around PS/21 doesn't have. The positive aspects are unique.

Suzanne Trevellyan thinks that the building is a great idea, and that she supports the idea to hang on a little longer. Someone from Kinderhook spoke to affordability. Movies on Tuesday nights are free. Other performances are open to all levels and world class artists come here. It would be a shame to lose it and not hang on.

Marc Jackson lives on High Bridge Rd. He loves this area. The reason they are called neighbors is because they are the physical neighbors of the facility. Many speaking in support are not neighbors. If you're not at the source, it's not pleasant.

Patricia Lasky said that PS/21 is operating on false premises. They have options. They can operate elsewhere. They can find a facility. It's

important that they stand by their promise. She said she has been coming to these hearings for five years and is begging the Board to hear her voice. She does not want to be disturbed any longer. This is way too much to bear. If they are so creative, let them find an enclosed venue.

Abby Behrens said that she loves the arts. She gets up at 5AM, and she takes measures to save the environment, so is not happy when she has to turn on the air conditioning because of the constant drone. People who come to enjoy PS/21 make a day or two of it, and it's not constant. The neighbors can't remove the drone, and there is no control of it. She's not in favor of shutting PS/21 down, but feels it should be moved elsewhere.

Robin Blass stated that she is not a part of PS/21 but she lives across the road from it. She doesn't hear it, and the traffic is not any more of an issue than when the cars speed out of the village on their way to work during rush hour.

Bill Behrens said that he could hear it from his pool. But, a deal is a deal, so the building needs to be built, as that would baffle the sound.

Colleen Safford added that all they are asking for is that they stick to their word. They've asked for a fund raising plan. She doesn't understand why the neighbors are being asked to burden the brunt of this. The applicant hasn't done anything to help themselves. There has been no good faith. Now they need to stand by their word. The neighbors are being strung along with nothing happening. The Zoning Board must protect the neighbors.

Brian Behrens wondered in which direction the tent faces. It faces north.

Mitchell Khosrova said that he has always been a proponent of the tent, and that the Board has always been consistent about concerns. He asked Atty. Longstreet to address the issue of fundraising. Mr. Longstreet stated that this was included in the letter sent to the Board. 11 million dollars is needed. Professionals would have to be hired, but first there is a need to know that there is local support. Grants and governmental support has dried up. Many individuals have been spoken to, and the time is not right for this. They had hoped that this would get better, but things are getting worse. It's not right to ask for money during these times.

Terry Lasky said that they are focusing on the tent being there rather than a main building. If the tent ends, perhaps a business plan is needed. How can it be justified that the tent run even another season?

Scott Longstreet reminded everyone that in the original application the tent was never supposed to be temporary, but PS/21 was asked by the Board to limit the tent before the building, which was agreed upon. Mitchell Khosrova stated that the study for the decibel level was for the 5 year period. It has been disruptive. In his opinion, they are starting fresh by asking for a permanent tent. People are being bothered and it is important to weigh the community benefits with personal inconveniences. The question was posed as to whether the ultimate goal is still to have a building. It is. Mr. Longstreet doesn't believe that this so-called intrusion is any greater than before. It's the same people who objected before this even started who are here. Many neighbors aren't bothered at all. Mr. Lasky disagreed. He said that the neighbors have not bothered to come in. Colleen Safford said that no good-faith is being shown at all in saying that the tent will stay. This is a bad execution of a dream. Those who live north of the tent are the ones hearing the noise.

A comment was made wondering why the tent couldn't be spun around so that the sound is projected towards the village. The Board needn't presume there is distraction. Anyone can come and listen. Why was the tent situated the way it was? This was an engineer's decision aiming for the least populated area.

JP Henkel said that this is not insignificant, and would be bothersome to him. People perceive differently and the decibel level may not be the only problem. Scott Longstreet said that if this noise is not of any greater impact than other uses for this property, he doesn't understand what the problem is. It's important to look at the long term benefit to the community. Mr. Henkel added that it is the right of the property owner to enjoy their property. Mr. Longstreet added that there is a limit of 50 decibels at the property line. No one else has to deal with these low limits.

Patricia Lasky stated that people bought houses in the country for a reason. PS/21 is operating under a false premise. They can have a tent, just elsewhere. The high school auditorium is available in the summer. If this is a dream, it should be researched further. The agreement of 5 years needs to be enforced.

Scott Longstreet stated that the benefit to all must be considered. Mr. Lasky said that the neighbors have gone the extra yard every single time. PS/21 doesn't.

Judith Luhmann lives on White Mills Rd, and although she can hear the tent, she's not as affected by it. She has been to the tent and feels it's a

wonderful thing because it gets the arts here. You have to be a fan of this because the seats are uncomfortable, and it's often cold, but it is worth it. She wondered if there was a sound level restriction for the town, and if the records of the previous meetings are available.

The tent was to be temporary. Neighbors haven't complained because they are trying to be good neighbors. Now it's not going to end. Maybe more stringent levels for decibels are needed.

Judy Grunberg said that the 5 year agreement was a compromise. Life doesn't go in straight lines, and she never realized the impact this would make. People love the tent because of the environment, arts and community working together. Once the building is complete, the tent would be used for some of the programs such as the movies and swing dances.

Mr. Lasky commented that now the desire is to have a tent in perpetuity. The community must be honored and the commitment kept.

Mitchell Khosrova asked Scott if the orientation of the tent could be checked. We are trying to figure out a way to keep the tent without intruding. JP Henkel wondered about any other possible mitigations, such as a sound barrier.

Chairman Everett said that the Public Hearing would be kept open. Any new information should be submitted two weeks prior to the next meeting.

Mr. Lasky wondered if any relief could be given for the upcoming year. Mr. Everett said that only the courts could do that.

Marc Jackson asked if different engineers could be used. Mr. Everett stated that Paul McCreary from Morris Associates would be reviewing this and anyone else is welcome to hire an engineer to submit information to the Board. Mr. Leary said that we were very black and white with the sound limitations from the get go. Random testing should be continued and a summary report of everything done over the years should be made.

Mr. Lasky said that no one cares about the annoyance to the neighbors. This was a promise. You are going back on your word. Atty. Longstreet said that this was not a promise. It was a condition of the agreement to mitigate a potential impact, which has been done adequately. The applicant is free to return for changes at any time. Chairman Everett emphasized that no promises were made. The special use permit was approved with conditions. The applicant has a right to ask for changes

by making an application to the Zoning Board. Mitchell Khosrova added that no disingenuous actions have been made. Lacking sufficient fund raising is not an adequate answer. However, it may be in the applicant's best interest to consider responding to this query. Mr. Longstreet again said that potential donors were approached and the decision was made that this was not the time. Why isn't this adequate? Mr. Khosrova responded that trust is the issue. In order to move forward, this is a missing piece.

The Board reviewed what information will be submitted: the engineers will be looking at a different orientation for the tent. Ms. Safford will provide a log of complaints made during 2009. Any and all other information will be welcome.

The meeting was adjourned at 9:18PM.

David Everett, Chairman

Respectfully submitted,

Marilyn Cohen, clerk

TOWN OF CHATHAM
FEBRUARY 25, 2010

ZONING BOARD OF APPEALS
FINAL COPY

MEMBERS PRESENT:

Kary Jablonka
Robert Leary
JP Henkel
Mitchell Khosrova
David Everett, Chairman
Jeff Lick
Adrian Ooms
Tal Rappleyea, Atty.
George Schmitt, Engineer
Walt Simonsmeier, ZEO

MEMBERS ABSENT:

None

PUBLIC PRESENT:

Edgar Acevedo Scott Longstreet
Barbara Nagler Sylvian Nagler
Joan Bloomberg Robert Trevellyan
Suzanne Trevellyan Barbara Peduzzi
Heather Spitzer Muriel Faxon
Angelo SanDiego Alice Witherall
Liza Corsillo John Spitzer
Warren Collins Peter Blandori
Terry Lasky Patricia Lasky
Evan Kutzer (?) Marc Jackson
Other community members

The February 25, 2010, Zoning Board of Appeals meeting was called to order by Chairman David Everett at 7:06PM. The Pledge of Allegiance was recited. Bob Leary moved and Kary Jablonka seconded that the minutes from the previous meeting be accepted. This carried.

PS/21– REQUEST FOR A MODIFICATION TO THEIR SPECIAL USE PERMIT WHICH WOULD ALLOW THE TENT TO BECOME A PERMANENT PART OF THE FACILITY PUBLIC HEARING (cont.)

The Public Hearing was reopened. Chairman Everett announced that the reports that were received will be reviewed and summarized and then public comment would be sought. It was requested that comments be limited to new material, and that proper decorum be followed in addressing the Board and respecting others' right to speak. This is an emotional issue, but everyone is an adult. Tal Rappleyea will review the history of this project from its inception, including the modifications approved to date. Walt Simonsmeier will review the complaints received and the investigation he conducted. The Town Engineer will provide the 2008 noise evaluation report. A map will be presented delineating those supporting and opposing this modification along with the appropriate correspondances. E-mails and letters from the public were also received and are available, as well as the article run in the newspaper with some comments.

Atty. Tal Rappleyea provided a history of this project, which included the legal standard of review for any project, the conditions of approval (April, 2005), the Sound/Noise Protocols Modification adopted in January, 2007, and the April, 2008 Modification of Conditions approval. (on file)

Code Enforcement Officer Walt Simonsmeier reported that he contacted the police agencies asking about any complaints in and around PS/21 for their 2009 schedule. The State Police said that they received a noise complaint on Aug. 22, 2008, which was investigated and determined to be unfounded. The County Sherriff stated that there were no complaints in 2009, but there was a complaint in January of 2008 of loud train noises. The village police stated there were no complaints.

Engineer George Schmitt reviewed the noise testing done in 2008. This was a random sampling of 12 programs. None that were tested approached the established limits. Although there was some audible sound on White Mills Rd, he reiterated that it did not approach the limits. The sounds mix in with the ambient sounds, which means you can "hear" sounds but at an ambient level, in this case about 44 decibels. JP Henkel wondered how decibels are measured. Mr. Schmitt explained that a logarithmic scale is used. The one utilized in this case uses an L-10 scale which holds a much stricter standard than the generally used LEQ scale. Chairman Everett also stated that the Board followed the DEC noise mitigation policy as part of the DEIS. JP Henkel said that he needed a definition for the work "objectionable." Mr. Everett stated that would be a reasonable sound level.

Atty. Scott Longstreet reviewed a graph of the area surrounding the tent, and showed the people that either spoke, wrote or submitted complaints and the proximity to the tent using color coding. 15 residences stated that they are not bothered by the sound although they may hear it, while 6 found it to be objectionable. There are a total of 85 residences in this area, and many have not made any contact whatsoever. Of the 6 who did find the sound objectionable, 4 of these were against the project since its inception, and 2 of these brought a lawsuit against the town, which was defeated. Only 21 nearby residents out of 85 spoke out either in favor or opposed. Some are unwilling to come forward for a variety of reasons. The report from the engineers reviewing the testing from both the first year and in 2008 proved that although the sound was audible at times it never increases the volume level from the normal ambient level. It may be heard because of the ebb and flow of sound, as part of a background noise, which hardly can be

described as intrusive or objectionable. Under SEQRA the Board needs to review mitigation efforts for any significant environmental impact. There is none as there will not be an increase in the volume decibel level at the residences at all. There also had been a question as to whether the orientation of the tent would minimize the sound. The engineers reported that it is set so that the noise goes into the hill, and is in the best possible spot. Atty. Rappleyea spoke to the fact that the law is clear regarding a Special Use permit. Requesting financial aspects such as a business plan or how funds are being raised are not areas covered by this law. If the project meets the criteria needed, the Special Use permit is approved. The project is exactly the same except that the sound is not going to be enclosed in a permanent building. However, the sound level is not being increased.

Chairman Everett opened the floor to the public.

Terry Lasky stated that he attended previous meetings, and 12–15 residents came to complain. The weather changes the way the sound travels. The engineers did not go to the neighbors' homes during differing weather conditions. He wondered whether the weather would cause the sound to be above the legal parameters. Different people are disturbed by different things. Mr. Lasky asked Mr. Simonsmeier if he asked about complaints from residents on Rt. 66. He stated he did and there were none. Mr. Lasky wondered how those records are maintained, and for what length of time. Mr. Simonsmeier stated that he didn't know. Mr. Lasky also commented that those talking about the impact of the noise should be those living there and that it was up to the ZBA to listen to them. Atty. Rappleyea added that legally a Board cannot exclude anyone from testifying.

Colleen Safford stated that she felt she had to place the call she did on July 24, 2009. The people enforcing don't know anything about PS/21. Parameters may be in place, but they are not working. The sound is very intrusive. She insisted that her complaint is not unfounded. Perhaps it is the decibel level that needs to be addressed. 50 decibels is the loudness of a radio or a conversation, which is intrusive. She also stated that there are three residences between her house and PS/21, and that two of them are vacant. People are afraid to come to the Board for different reasons. One can look at this in many different ways, but it doesn't mean they are not bothered by the noise.

Evan Messenger stated that he has lived here for 10 years and he wonders where Chatham would be without Judy's ventures. She has enhanced lives

in all that she does through her philanthropy based on her civic responsibility. A community with no arts is a community in decline. All of the details to minimize problems have been thorough. Mr. Messenger supports this venture fully.

Patricia Lasky wanted to know what recourse she has when the tent is permanent and she has to listen to PS/21 forever. She stated that she knew this would become a permanent tent. She wanted to know how she can enjoy the peepers and the trains when she hears PS/21 over all of that, which is not what she bargained for, nor did she expect to hear this muffled din. What will be done for her and the other neighbors? Atty. Rappleyea explained that this is a balancing act. Some will gain and some will not. He suggested that she speak directly to her attorney. Mrs. Lasky wondered about cutting her taxes. She stated that she has come to these meetings for the past six years, and now the tent will be permanent. What will be done for her?

Barbara Peduzzi read a letter from the Chatham Business Alliance in favor of this request.

Frances Iaconetti told the Board that he initially came to the meetings because of the possible impact this project might have on the property around it and the noise. He lives south of PS/21 and hasn't heard it at all. Something that is objectionable is in the eye of the beholder. He wondered if anyone on the Board has gone to any of these houses and listened. They could go when something is going on and when it is quiet to see the difference. Possibly granting a 3-5 year extension to the tent so this type of thing could be done would be a solution to see if PS/21 can take other measures to modify the noise, as he understands that noise can sound differently.

Peter Blandori stated that his brother Mark lives on High Bridge Rd, and that he hasn't heard anything.

Warren Collins lives in Kinderhook. 30 years ago when she came here, she had no neighbors. Now she can hear the country music, the loud lawnmowers, and the chain saw on a Saturday and Sunday, the ATV across the way and an incessant barking dog. All of these sounds are a nuisance, they are audible and they are legal.

Terry Lasky stated that Mr. Blandori works for Judy, which may be why he doesn't hear anything, plus the fact that he plays his drums very loudly. He wondered if Judy has the right to prevail just because she's a philanthropic person.

Frances Viellette stated that she attends events at the tent and is grateful to Judy for these, as well as for the free movies.

Marc Jackson said that of the 4 homes near him on High Bridge Rd. two are not permanent residences; his is. Maybe Mr. Blandori doesn't hear PS/21. He does. The other resident who is full time may be hard of hearing, too.

Melissa Pollack supports PS/21. She spoke about the noise issue she had this past summer at her residence where she had to call the State Police to complain. They don't feel they have real jurisdiction over this, but they had to insist that someone come and deal with it. There are decibel meters, and it would be a good idea to have the Town personnel write letters or contact the authorities and suggest they get them. The Town does have a monitor from PS/21 and Mr. Simonsmeier stated that we also have a hand held meter to use.

Mr. Lasky stated that there continues to be confusion as to who is to be contacted for a complaint. The neighbors were told not to call the Zoning Enforcement Officer but the sheriff. He also pointed out that there were 6 plaintiffs in the Article 78, not 2. He also stated that the letter from the Business Alliance should not be considered because PS/21 has had no impact.

Colleen Safford added that they have wanted to meet with PS/21 to try to come up with solutions to lessen the impact, but that they have refused to meet with the neighbors. She wants Judy to understand that she's upset many people. She would have liked to have seen more good faith by the applicant. She has great dreams but lacks skill, and it is very upsetting that the applicant wouldn't work with the neighbors.

Mr. Iaconetti stated that the tent was to be temporary and that the inconveniences would eventually decrease. By making it permanent, this would be for life. The tent was to help it along.

The Public Hearing was closed at 8:50PM.

Mr. Leary reminded everyone that if PS/21 violates the sound agreement, the special use permit can be pulled. Tests will continue. He is not in favor of a permanent tent. He feels that if the building goes up, the tent should go. He also feels that they should not be allowed to rent the tent for a wedding as that is not culture or art.

Jeff Lick spoke to the fact that he has been involved in fund raising, and he was approached about PS/21. All the right work was done by them. It is sometimes difficult to balance the needs of the community. It's hard to say there won't be any noise, but everyone has to do some accommodating. We all have some noise at our homes. The economic impact on the Town is beside the point. The Board has reasonable guidelines to live up to.

JP Henkel said that he is having a hard time filtering out the adversarial comments. The sound can be heard on White Mills Rd. and High Bridge Rd. Sound can have an annoying nature. He's wrestling with whether this is more objectionable than another allowable use. It's frustrating that there has been so little collaboration.

Kary Jablonka talked about how many would be needed to find something objectionable. There really isn't a number involved for this. Rather, we have to listen to the evidence, which means we can only consider those who have come and voiced an opinion, plus use the objective evidence provided. He is a bit uncomfortable with perpetuity, and feels there should be ongoing conversations for mitigating this. PS/21 makes an important contribution.

Mitchell Khosrova said that the Board has had difficult decisions to make in the past. If a request fits the description and meets the requirements, it should be allowed. Perpetuity seems to be the problem. Incredibly difficult sound standards were set from the beginning, all of which were met. If all of these restrictive requirements were met, what right does this Board have to deny the request? This land could have a development of 20 houses, which he feels would be more intrusive. Five years for the tent was given, during which time all the testing was done, and they never came near the agreed-upon sound limits.

There was some discussion about keeping the tent when and if the building was constructed. There would never be concurrent performances. The Board grappled with what to do now. In the past, a consensus was taken and then the attorney would draft a resolution to consider before a vote. Or, the vote could be taken tonight and then the resolution could be done.

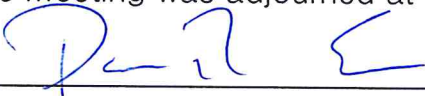
Colleen Safford spoke again about hearing this 12 hours a day for 4 months a year. She wondered about living with the original decision as far as number of performances. JP Henkel also wondered whether intermittency would help. Mr. Khosrova reminded the Board that the sound is within the set limits. Mr. Schmitt commented that other issues than sound may be present. Mr. Everett stated that sound does seem to be the only issue.

Dave Everett moved that the Board amend the SEQRA findings to allow the tent to be a permanent structure. This was seconded by Kary Jablonka. There were 6 Ayes and 1 Opposed (JP Henkel).

JP Henkel moved that the tent be approved using the 2005 findings for times and frequency of performances. Bob seconded the motion. Mr. Henkel stated that something has to be done for these neighbors. He knows that he would be livid if this happened to him, and he can't believe that the applicant is willing to do this knowing how disturbing it is to some neighbors. Mitchell Khosrova said that they have heard the objections throughout the entire process since its inception, and he resents hearing that nothing has been done. There was one Aye (JP Henkel) and 6 Opposed. The motion was defeated.

Kary Jablonka moved to approve the modification which would permit the tent to become a permanent structure. Adrian Ooms seconded the motion. JP Henkel thought that conditions as far as the frequency of performances and the lateness of operation could be made. The applicant indicated that they are happy with what they currently can do as far as frequency and hours of operation. There were 6 Ayes and 1 Opposed (JP Henkel). The motion carried. Mr. Henkel stated that he felt that this use is more objectionable than other allowable uses.

The meeting was adjourned at 9:33PM.



David Everett, Chairman

Respectfully submitted,

Marilyn Cohen, clerk

TOWN OF CHATHAM
March 25, 2010

ZONING BOARD OF APPEALS
FINAL COPY

MEMBERS PRESENT:

Kary Jablonka
Robert Leary
JP Henkel
Mitchell Khosrova
David Everett, Chairman
Jeff Lick

MEMBERS ABSENT:

Adrian Ooms

Public Present:

Melissa Blass

The March 25, 2010, Zoning Board of Appeals meeting was called to order by Chairman David Everett at 7:00PM. The Pledge of Allegiance was recited. Mitchell Khosrova moved and Kary Jablonka seconded that the minutes from the previous meeting be accepted, which was unanimously approved.

MELISSA R. BLASS - REQUEST FOR A SPECIAL PERMIT TO ALLOW A 2-FAMILY DWELLING ON PROPERTY LOCATED ON ALBANY TURNPIKE.

Chairman David Everett noted that this was an informational meeting. Melissa Blass described her proposed project to renovate an existing "mother-in-law" suite into a rentable tenancy by adding a kitchen sink, stove top, and oven. She read her previously provided narrative describing how she has lived in this house since 1972. She cares for developmentally disabled people in the home under Certification by NYS. She has lost two residents, and is hoping to replace them with renters.

The Board asked about the presented sketched map and plans of the house, and what changes were planned. Is there a door between the two sections of the house? Yes. What about adequacy of parking? Space in the drive, on a pad in front of the house, and on a grass area beside the garage. Is there separate heating? Monitor heating has been installed.

The key concerns of the Board were the adequacy of the septic system, and parking. The Board asked for a better floor plan of the house and map of the property. They also asked that Marilyn Cohen contact the Board of Health to have the septic system reviewed.

A public hearing was set for April.

The meeting was adjourned at 7:28.

Respectfully submitted,

Jeff Lick, acting clerk

Dave Everett, Chairman

**TOWN OF CHATHAM
APRIL 22, 2010**

**ZONING BOARD OF APPEALS
FINAL COPY**

MEMBERS PRESENT:

Robert Leary
JP Henkel
Mitchell Khosrova
David Everett, Chairman
Jeff Lick
Kary Jablonka (7:11PM)
Adrian Ooms
Walt Simonsmeier, ZEO
Tal Rappleyea, Atty. (7:30PM)

MEMBERS ABSENT:

None

PUBLIC PRESENT:

Linda Chernewsky
Pamela-Jo Nelson Drew Nelson
Paul Freeman Catherine Linck
Peter Linck

The April 22, 2010, Zoning Board of Appeals meeting was called to order by Chairman David Everett at 7:00PM. The Pledge of Allegiance was recited. Bob Leary moved and Mitchell Khosrova seconded that the minutes from the previous meeting be accepted, which was unanimously approved.

**PAMELA-JO AND DREW NELSON-REQUEST FOR A VARIANCE TO
ALLOW AN EXTENSION ON A PROPOSED SECOND STORY TO THEIR
HOME THAT DOES NOT MEET SETBACKS INFORMATIONAL**

The applicants wish to add a second story to their home, and one part would extend out over the kitchen. However, they are not going any further out than the original building. The architectural rendition was shown. Chairman Everett wondered if this would be blocking the views of anyone in the area, to which the applicant responded no. The DEC permit was reviewed, due to the proximity to Kinderhook Lake, and some neighbors have submitted letters stating they were not objecting to this. ZEO Walt Simonsmeier was asked why this project had to come to the ZBA. He explained that it is because the home is located on a town road, where the setback required is 50' from the center of the road as opposed to a 25' setback on a state or a county road. Because of this, a 17.1 foot variance from the front and a 23.7 foot variance from the side will be needed. A Public Hearing will be held on this request at the next meeting.

WHITE BRIDGE FARM- REQUEST FOR A SPECIAL USE PERMIT TO ALLOW THE RENOVATION OF THE FIRST FLOOR OF AN EXISTING STABLE TO USE AS A GATHERING SPACE WHICH WILL INCLUDE A BATHROOM AND A KITCHEN INFORMATIONAL

Linda Chernewsky is representing the applicant. When the client purchased the farm there were apartments on both the first and second floor. When a building permit was applied for to make these renovations, it was discovered that although the second floor apartment had a certificate of occupancy, the apartment downstairs was constructed without a permit. Because there is already an apartment, the ZEO felt that this request would make it a 2-family structure, which requires a Special Use Permit. Ms. Chernewsky added that this is not going to be used as a living space.

After some discussion, the Board felt that what is being requested here is to use the first floor as an accessory use to the main residence. Then, if someone were to live here, they would be violating the use. The applicant agreed to modify the application to request an interpretation allowing the applicant to use this as an accessory use. A Public Hearing will be set for the next meeting.

PETER AND CATHERINE LINCK- APPEALING A DECISION MADE BY THE ZEO AS TO WHETHER A BUSINESS IS BEING OPERATED IN AN H-1 ZONE INFORMATIONAL

Paul Freeman is the legal counsel for the applicants, who had sent a letter of complaint regarding activity on their neighbor's property. Mr. Simonsmeier investigated their complaints. They are appealing some of the decisions thereof, as they feel that there are activities occurring on this property that are beyond residential. Photographs were shown to the Board, which included a number of snowmobiles being repaired on the property close to the property line. After the ZEO contacted the neighbor, some of the machinery was moved towards the front of the property, and other items were moved behind the house. According to the applicant, there appears to be some sort of business going on. There are trucks parked and then used off-site. The Board wondered about an excavation business, but the applicant couldn't say for sure. There is a loader, a semi and tractors on site. Some are parked on the front yard which is a clear violation of the Town Code. Even if this was to be considered a home business, the criteria for that are not being met because a home occupation can't produce excessive noise, smoke, odor, vibrations, etc., and this does. ZEO Walt Simonsmeier's letter to the neighbor was reviewed. He had asked that the tire rims, etc. be cleaned up. This has been done, so the applicant is not appealing this. Mr.

Simonsmeier told the neighbor that trucks and trailers could not be parked in the front yard, but the rear of the property could be OK. This is being appealed. Mr. Simonsmeier stated that perhaps the vehicles' fumes would dissipate better in the back. This is being appealed. Mr. Simonsmeier stated that the vehicles that are parked are legal. This is being appealed. Mr. Simonsmeier also did not see an inordinate number of snowmobiles on his visit. The applicant is appealing this since there are snowmobile parts and a large number of these machines on the property. Mr. Simonsmeier said that the Ford tractor is there year-round and that many town residents have a tractor. The applicants are appealing this because they feel it is being used for a business use. This has been going on about 20 years. Mr. Simonsmeier stated that the neighbor knows of this appeal, and that he has contacted his lawyer. Atty. Freeman is going to look at the DOT records to see if he can learn how the truck is registered. The applicants were asked if other workers were coming to the property. They have not seen anyone. There was a legal resolution drafted many years ago regarding these same issues, but the neighbor never signed it. It was processed through the courts. It started in Chatham, then moved to Albany and finally to Kinderhook where the decision was rendered by Judge Williams. ZEO Simonsmeier stated that he has requested information about this and has gotten no response. Chairman Everett wondered if the trucks that are being seen are always the same ones. The Lincks stated that the semi is the same, there is a dump truck there some of the time and there has been a front loader there for quite awhile and various trailers. Mr. Simonsmeier stated that there is one tractor and 2 trailers on the property. The applicants stated that they have seen the neighbor working on the trucks, and that they have seen barrels, but they don't know what they contain, and that the truck is parked on the right of way driveway. Mr. Everett asked if the truck was parked on Rt. 203, to which the applicant responded that sometimes it is on the shoulder. Atty. Rappleyea wondered about the prior violation and whether it was still open, and why it was never formalized, and if it is still in the courts. Tal will look at the pleadings and find out what the stipulations were. A Public Hearing was set for next month. Mr. Everett questioned Mr. Simonsmeier as to why this is taking awhile, to which both Mr. Simonsmeier and Atty. Rappleyea responded that the process does take time. Mr. Simonsmeier stated that the area is about 50% cleaned up, so it is moving along.

Chairman Everett told the Board that two members of the ZBA are needed to assist in the writing of the new zoning code to complement the Comprehensive Plan. Many offered their services, but the decision was to have the Chairman (Dave Everett) and the Deputy Chairman (Mitchell Khosrova) represent the Zoning Board in this endeavor.

The meeting was adjourned at 8:06 PM.

David Everett, Chairman

Respectfully submitted,

Marilyn Cohen, clerk

TOWN OF CHATHAM
MAY 27, 2010

ZONING BOARD OF APPEALS
FINAL COPY

Members Present:

Robert Leary
JP Henkel
David Everett, Chairman
Jeff Lick
Kary Jablonka
Adrian Ooms
Mitchell Khosrova(7:50)
Walt Simonsmeier, ZEO

Members Absent:

None

Public Present:

Matthew Greisemer	Carl Bornhorst
Robert Boll III	Tara Boll
Lauren Intrieri	Larry Intrieri
Michael Intrieri	L.M. Intrieri
John Antalek	Jennifer Boll
Robert J. Boll, Jr.	Arlene Butler
Pamela-Jo Nelson	Peter Linck
Catherine Linck	Thom Lipiczky
Linda Chernewsky	

The May 27,2010, Zoning Board of Appeals meeting was called to order at 7:00PM by Chairman David Everett. The Pledge of Allegiance was recited. Kary Jablonka moved and Jeff Lick seconded that the minutes from the previous meeting be accepted. This carried.

PETER AND CATHERINE LINCK- APPEALING A DECISION MADE BY THE ZONE ENFORCEMENT OFFICER AS TO WHETHER A BUSINESS IS BEING OPERATED IN AN H-1 ZONE PUBLIC HEARING

Atty. Matthew Greisemer is representing the applicants, who are appealing a decision made by Walt Simonsmeier. Atty. Greisemer reviewed the appeal request. The Lincks contend that the neighbor, Larry Intreiri, has been operating trucks and equipment from his property since 1992. In February, 2010, the applicants sent a letter to Mr. Simonsmeier objecting to this. His response was that he couldn't say that it was a commercial use, so directed it to the ZBA. The Lincks state that this property is being used as a commercial enterprise in an H-1 zone, which is disallowed, and that there is industrial uses of vehicles on that property, and if it is a home occupation it is not following the guidelines because of the amount of dust, noise and pollutants that are being generated. Atty. Greisemer also provided information on the 18-wheeler truck that is at that location. It is registered to Lawrence Materials, Inc. at the Rt. 203 address. Lawrence Materials is a corporation, even though it has its franchise taxes due. Chairman Everett spoke of the Judge Williams stipulation that dealt with a similar situation---too many trucks on the property---but nothing was resolved, and it is still open. Clerk Marilyn Cohen added that three phone calls were received by the ZBA from adjoining property holders who had no problems whatsoever with what was happening on the Intrieri property. The locations of their homes were shown on a tax map. Mr. Intrieri was asked to

respond. He said that yes, he does park his truck at his house on Rt. 203, but since his property is below the road it can't be seen from the road. He does not run it for hours at a time. The most it is run for warm-up purposes is 7 minutes, and it is a very quiet vehicle. He was stopped for emission control in Connecticut recently and he fell way below (17%) the allowable standard (40%) of particulates. No smoke is visible from his vehicle, nor is there any dust. He comes home, parks the vehicle and then leaves in the vehicle the next day. As far as the contention that he has a bulldozer on the property, he does not own one. He has a pay loader, but it has not been on his property until this past fall, and it is not being used at all on the property. As far as the snowmobiles are concerned, that is his hobby. The fact that the neighbors shot pictures of the tires on the property means that they trespassed onto the property without permission. The blue tractor that is currently on the property belongs to his brother and it is being used to repair his driveway. He denies running a business from his home. Chairman Everett asked Mr. Intrieri what the purpose of the pay loader is. He responded that he is waiting to go elsewhere with it once the economy turns around. He does own it. At times he loans it out, and at times it is used in the business, but never at his house. He stated that he only has the one tractor and up to three trailers at his house, but only one trailer can be used at a time, and that he is the sole operator. Kary Jablonka asked where he maintains his records. These are at his home. Jeff wondered about any other equipment. Mr. Intrieri stated that there is no other equipment, that the snowmobiles are for his personal use. Robert Leary asked about the size of the lot. It is 1.87 acres. JP Henkel asked if he did snowmobile repairs on his property. Mr. Intrieri said that he might repair his own, but no others. He added that he feels that he has been a victim. He claims that many years ago he had to call the police because the applicant had been outside taking pictures of his children, and since then there have been these allegations against him of conducting a commercial enterprise on his property. He added that Judge Williams wouldn't sign the stipulation because he said that the Lincks needed to get a lawyer, and all the paperwork after that disappeared. He never has heard a complaint from the neighbor across the street who would be the one who would be bothered if there was a problem. Mr. Jablonka asked him if he was operating a business out of his home. He said he was not. He keeps records at his house, as many people do, but there are no advertisements for his business, nor are there any signs. The Public Hearing was opened at 7:32PM.

Jennifer Boll, who lives three doors away from the Intrieris stated that she is very upset about this allegation. Mr. Intrieri is trying to provide for his

family. He is often gone for weeks at a time. They are quiet, good neighbors. It is normal for someone to drive the vehicle they go to work in at their home. Keeping records at home is normal. This is not a gated community. Ms. Boll said that she is supportive of Mr. Intrieri's endeavors and said that there is no undue impact on the neighbors.

Mr. Intrieri added that he lives on a main road where the vehicles often go 55-60mph. All vehicles use this road and there is dust, dirt and noise from many of these vehicles, unlike his vehicle.

Robert Boll said that he lives uphill from Mr. Intrieri. He is an excellent neighbor who is helpful and who works hard. He brings his truck home, parks it and then is gone 4-5 days. It is good that the town of Chatham allows people to park a truck on their property.

Carl Bornhorst said that he is new to the area and to him the only loud noises are the motorized boats, the trains and the geese. He doesn't hear the truck.

Robert Boll III lives across the street from Mr. Intrieri. He said that he is a great neighbor. His house is above Larry's, and he would be the one to complain if there was an issue, but there is no problem. They are glad to have him in the neighborhood. The Public Hearing was closed at 7:40PM.

Atty. Greisemer added that Mr. Intrieri is admitting he is running a home business, and if one were to Google the business the Rt. 203 address is listed as the location.

ZEO Walt Simonsmeier said that the Town of Chatham has no definition for a commercial business, and even if there was one, this would not fall under that. There are 2 to 300 other people in the Town who do the same thing. If this is deemed a business, others can complain too. To be a business or a home occupation, it must be run at that location. This isn't. Kary Jablonka wondered what does constitute a business. If Mr. Intrieri was loading and unloading stone at his home and then reloading it to his truck to take it somewhere, it would be a business. It wouldn't be a business just because the phone rings at the house. Having the pay loader there might cross the fine line into considering it a business, but it isn't being used. Mr. Jablonka said that having the tractor, two or three trailers and the pay loader are all integral in the operation of his business, and parking and storing the vehicles on a property would be considered part of a business, so at what point does it become a business? Mr. Intrieri said that he is not doing billing at home. He cited examples where this week he billed from a motel room

and from a driver's lounge while his truck was being serviced. Although payments are received at his house, he could get a post office box. Chairman Everett stated that he is concerned about setting a precedent here. In considering the home as an accessory use, one must look at the degree of use. Atty. Greisemer reviewed what living in an H-1 zone means. It does not permit the storage of large vehicles, which is what is being done here, so it is a clear violation. Mr. Everett stated that a decision has to be rendered taking into consideration the facts that are before the board.

ZEO Walt Simonsmeier stated that the Town Code, when it refers to the front yard, is looking at the setback. In this case, it is 25' and the truck is not parked in this setback area. After listening to what most of the neighbors present are saying and to what Mr. Intrieri is saying and what is supported by the emission control document submitted, the issue of fumes being emitted is not happening. The main issue continues to be the fact that there is no definition of commercial use, which is what the Board will have to decide upon. As far as the tractor which is currently on the property, many people have them, and this isn't an issue. There is also no law against having snowmobiles, and Mr. Intrieri is not repairing others. The Board was polled as to their thoughts on this being a business as opposed to an accessory use.

Mitchell Khosrova feels this is a business. Vehicles need to be stored elsewhere. JP Henkel feels that Mr. Intrieri has the right to drive his vehicle home, whatever that may be. He has an issue with the pay loader and the extra trailers, but if they weren't there, he'd think it was an accessory use. Bob Leary feels that one tractor would be OK, otherwise there are too many trailers so it would be considered a business use. Kary Jablonka has a problem with the pay loader, but feels that the truck and two trailers would be an accessory use. David Everett feels that with the present equipment it would be a business, but if some were to be removed he would reconsider this as an accessory use. Jeff Lick feels that it is a business because the records are kept here and this is the home base. The volume of the equipment is also a concern. Adrian Ooms feels that if the pay loader is the issue, Mr. Intrieri said that he would move that. The business is an address only, so he would consider it an accessory use.

David Everett moved that with the polling of the Board, this be tabled until the next meeting, so that Atty. Rappleyea can write up a decision for consideration at that meeting after which a vote will be taken. This was seconded by JP Henkel and carried.

PAMELA-JO AND DREW NELSON- REQUEST FOR A VARIANCE TO ALLOW AN EXTENSION ON A PROPOSED SECOND STORY TO THEIR HOME THAT DOES NOT MEET SETBACKS PUBLIC HEARING

Mrs. Nelson reviewed the project and showed the new and updated rendition of the second story. She also turned in the postal receipts indicating that the adjoining property holders within 500' were notified. Although it is changed a little, it does not affect the request for this variance. A 33.1 foot variance in the front and a 23 foot variance on the side are needed. The Public Hearing was opened at 8:44PM. There were no comments. The Public Hearing was closed at 8:44PM. Mitchell Khosrova moved that a 33.1 foot variance from the front and a 23 foot variance from the side be approved for this project to be completed. Kary Jablonka seconded the motion and it carried unanimously. The approval fee was submitted.

WHITE BRIDGE FARM- REQUEST FOR AN INTERPRETATION OF THE ZONING CODE WHICH WOULD ALLOW THE RENOVATION OF THE FIRST FLOOR OF AN EXISTING STABLE TO USE AS A GATHERING SPACE WHICH WILL INCLUDE A KITCHEN AND A BATHROOM AS AN ACCESSORY USE. PUBLIC HEARING

Linda Chernewsky is representing the client. She reviewed the request and stated that the application was redone per the advice of the Board to request this as an interpretation of the Zoning Code. She turned in the postal receipts indicating that all the adjoining property holders had been notified. She stated that she spoke with Victoria Kremer who said that she was happy to have people doing something on the farm. Chairman Everett asked if she would have a problem making it a condition that this space is not to be used as living quarters. This would not be a problem. The Public Hearing was opened at 8:47PM. There were no comments. The Public Hearing was closed at 8:47PM. Mitchell Khosrova moved that the first floor of this stable can be used as a gathering space, which will include a kitchen, bath and laundry facilities, but would not be used for living quarters as an accessory use to the main house. This was seconded by David Everett and carried. The approval fees were paid.

DONALD TUBBS-REQUEST FOR A VARIANCE WHICH WILL ALLOW AN OUTSIDE BOILER THAT CANNOT MEET THE SIDE SETBACK INFORMATIONAL

When Mr. Tubbs came to apply for his building permit for the outside boiler, he learned that he needed a variance because he can't meet the setback. He had placed it where it is because the neighbor had expressed an interest in hooking into the boiler, although this has not happened. This wood boiler, according to ZEO Simonsmeier is an

accessory use. Currently the stacks are 12-15' off the ground on a 1" pad of crusher run. There was some discussion as to whether this is considered a structure. Mr. Simonsmeier stated that the Department of State considers this an accessory use. In order to do what Mr. Tubbs is proposing, he would need a 30' variance. Mr. Everett stated that a survey would be required with both sidelines and the distances from the boiler on that survey prior to a Public Hearing. He also indicated that the variance criteria would also have to be met. He cautioned that utilizing outside boilers right now is a big issue, and Mr. Tubbs can expect that there might be some controversy regarding this from the public. If the survey is submitted, this will be set for a Public Hearing in July.

BEVERLY HOUSE- REQUEST FOR A VARIANCE WHICH WILL ALLOW FOR AN ADDITION TO BE CONSTRUCTED ON THE RESIDENCE THAT CANNOT MEET THE SETBACK INFORMATIONAL

Tom Lipiczky is representing the applicant who wishes to put a 180 square foot addition on the back of the existing farmhouse which was built around 1775. The addition would be about 38' from the property line, and 50' is required. All of the adjoining property is owned by Bill Landford who has sent in a letter indicating that he has no problem with this plan. Chairman Everett stated that a survey of the property will be needed. If this is received, the Public Hearing will be set for the June meeting.

Dave Everett moved and Jeff Lick seconded that the meeting be adjourned. The meeting ended at 9:20PM.

David Everett, Chairman

Respectfully submitted,

Marilyn Cohen, clerk

**TOWN OF CHATHAM
JUNE 24, 2010**

**ZONING BOARD OF APPEALS
FINAL COPY**

Members Present:

Robert Leary
David Everett, Chairman
Jeff Lick
Kary Jablonka
Adrian Ooms (7:05)
Mitchell Khosrova
Walt Simonsmeier, CEO

Members Absent:

JP Henkel

Public Present:

Matthew Griesemer
Peter Linck
Catherine Linck
Thom Lipiczky
Bob Funck

The June 24, 2010, Zoning Board of Appeals meeting was called to order at 7:00PM by Chairman David Everett. The Pledge of Allegiance was recited. Chairman Everett moved that since Attorney Tal Rappleyea was unable to complete the resolution for the Linck appeal, approval of the previous minutes would be tabled until the next meeting. This was seconded by Mitchell Khosrova and carried.

Clerk Marilyn Cohen announced that Donald Tubbs withdrew his application for the variance for his wood boiler. Jeff Lick wondered why he did this. CEO Simonsmeier told him that because he is on a fixed income he wasn't able to afford the survey and other expenses related to this and will disassemble the boiler.

Chairman Everett said that he would like to table the Linck appeal until the next meeting because the resolution was not complete. Jeff Lick requested that since this is the case, he would like to review it before the next meeting. Mr. Everett said that this would occur. Mitchell Khosrova moved and Robert Leary seconded that the Linck appeal be tabled until the next meeting. This carried. Mr. Khosrova suggested that should something like this happen again where the Town is not ready to proceed, the applicants be notified prior to the meeting. Chairman Everett noted that the ZBA only found out at the last minute that the requested resolution would not be ready for the meeting.

BEVERLY HOUSE- REQUEST FOR A VARIANCE WHICH WILL ALLOW FOR AN ADDITION TO BE CONSTRUCTED ON THE RESIDENCE ON BACHUS ROAD WHICH IS UNABLE TO MEET SETBACKS PUBLIC HEARING

The applicant's representative, Thom Lipickzy, distributed the survey of the property that had been requested by the Board. Mr. Lanford, the adjoining property holder had indicated earlier that he has no issues whatsoever with this request. Mr. Lipickzy reviewed the project where the addition can not meet the side setbacks since the house was built before zoning and doesn't meet today's setbacks. No SEQRA determination is needed for this action. David Everett moved, and Robert Leary seconded that an 11'2" variance be approved. This carried unanimously. Approval fees were collected.

PAUL O'LEARY- APPEALING A DECISION MADE BY THE CODE ENFORCEMENT OFFICER AS TO WHETHER CLASS C SHOOTING PRESERVE IS PERMISSIBLE ON HIS PROPERTY ON ROCK CITY ROAD INFORMATIONAL

Cynthia Elliot is representing the applicant. She reviewed the land that is owned by Mr. O'Leary, which totals over 100 acres. There were no deed restrictions placed on any portion of the property when it was purchased. Mr. O'Leary applied to the DEC for a Class C Shooting Preserve License, which was granted. One of the requirements involved posting the property as a Class C Shooting Preserve, which Mr. O'Leary did. His intention is to raise and hunt pheasant on his property. A Class C license allows the applicant to release birds on the property and the season is somewhat longer than the normal season. Mitchell Khosrova requested to see the actual application that Mr. O'Leary submitted. The license that was submitted had expired, but Ms. Elliot explained that Mr. O'Leary is in the process of renewing same. She reiterated that this is not for commercial use, but rather a private entity for personal use. Adrian Ooms wondered if the hunters on the property would require a license, even if they are family or invited guests. Although Ms. Elliot wasn't sure, she assumed a hunting license would be required. There was a question as to where on the property this would be taking place. Ms. Elliot guessed that it would be on Parcel 2. Mr. Everett wondered about frequency and times and intensity of use---how many birds/crates--- which could place this as an accessory use. Ms. Elliot reminded the Board that no structures would be erected. Robert Leary wondered about proximity to other dwellings. Ms. Elliot responded that there is possibly one dwelling about 500' from the property line, but she wasn't sure that any

hunting would take place near there. It was reviewed that if this were to be approved, and if hours and intensity became an issue that it had gotten out of control, the Zoning Enforcement Officer can go in and take appropriate actions. The entire hunting area would have to be fenced. Mr. Leary wondered about having better definitions with restrictions as to how long and often hunting could occur. Chairman Everett noted that the DEC permit requires the applicant to file an annual report and a variety of other information about the shooting preserves to DEC. Ms Elliot will provide the Board with a copy of all this information as well as with a copy of the application. A Public Hearing will be set up for the July meeting.

JULIE FENSTER- REQUEST FOR A VARIANCE IN ORDER TO PUT IN A SWIMMING POOL ON HER PROPERTY ON OLD RT. 66
INFORMATIONAL

Cynthia Elliot is representing the applicant. Ms. Fenster has restored a house on Old. Rt. 66. She wishes to put in a pool accessible to the house; however because of overhead power lines, she will require a 10' variance on the rear line and a 20'11" variance on the side line in order to accommodate the 15'x60' lap pool she wishes to put in. The Board asked about the possibility about placing the pool elsewhere. Part of the rest of the property is wooded and another part is located on a rock ledge, which would prohibit placement there. Chairman Everett requested that the set back dimensions for the pool be placed on the main survey map. The Public Hearing will be set for the July meeting.

The meeting was adjourned at 8:00PM.

David Everett, Chairman

Respectfully submitted,

Marilyn Cohen, clerk

**TOWN OF CHATHAM
JULY 22, 2010**

**ZONING BOARD OF APPEALS
FINAL COPY**

Members Present:

Robert Leary
Jeff Lick
Kary Jablonka
Adrian Ooms
Mitchell Khosrova, Dep. Chair
JP Henkel
Tal Rappleyea, Atty.
Walt Simonsmeier, CEO

Members Absent:

David Everett

Public Present:

Paul Freeman
Joseph Briggs
Gail Wessot
Catherine Linck
John Wapner
Cynthia K. Elliot
Paul O'Leary
Lawrence M. Intrieri, Jr.
Peter Linck
Cindy Bobseink

The July 22, 2010, Zoning Board of Appeals meeting was called to order at 7:00PM by Deputy Chairman Mitchell Khosrova. The Pledge of Allegiance was recited. Jeff Lick moved and Bob Leary seconded that the minutes from the May meeting be approved. This carried. Bob Leary moved and Adrian Ooms seconded that the meeting minutes from the June meeting be adopted. This carried.

**PETER AND CATHERINE LINCK-APPEALING A DECISION MADE BY
THE CODE ENFORCEMENT OFFICER AS TO WHETHER A BUSINESS IS
BEING CONDUCTED IN AN H-1 ZONE.**

This project had been adjourned while the resolution was being prepared. A letter from Lawrence Intrieri was received. The Lincks' attorney requested that this letter not be considered as it was received after the Public Hearing had been closed. The resolution (attached) was reviewed and some minor adjustments were made. Kary Jablonka moved and Jeff Lick seconded that the resolution be accepted. This carried unanimously. CEO Walt Simonsmeier asked whether the fact that the pay loader is gone and that this changes the circumstances, whether a new determination could be made. He wondered if the ZBA would like to provide some guidance in this matter. Atty. Freeman, who represents the applicant, stated that he understands that this resolution regards everything in totality—the tractor, and the three trailers which are owned by a corporation. It was further pointed out by the ZBA that the resolution states that this decision is not precedent setting since it is based on facts pertaining to this situation only. As such, this does provide limited guidance as to future issues, and if at a later date things change, a new determination may be sought.

**PAUL O'LEARY- APPEALING A DECISION MADE BY THE CODE ENFORCEMENT OFFICER AS TO WHETHER A CLASS C SHOOTING PRESERVE IS PERMISSIBLE ON HIS PROPERTY ON ROCK CITY ROAD
PUBLIC HEARING**

The applicant submitted the copy of the application, and the new and renewed licenses, and postal receipts showing that the adjoining property holders had been notified. Ms. Elliot reviewed the different classes of licenses available from the DEC. The one that is being sought is for the applicant's own personal use, with no commercial use at all. Some of the rules the DEC adheres to with a license includes no shooting within 500' of a dwelling, and no shooting across a street. This license would extend the ability to hunt by one month. Mr. O'Leary has hunted on his property since he has owned it. He was asked where the hunting would be taking place. Mr. O'Leary responded that he reserves the right to hunt anywhere on his property. The Public Hearing was opened at 7:27PM.

John Wapner requested more information as to the length of the season and what the plan was. The applicant will be allowed to hunt for an extra month and will be releasing birds for his own use and for the use of his guests. Cindy Bobseink asked about the process and what it meant. Mr. Wapner added that many years ago on what was the Highland Farms there was a hunting facility. CEO Walt Simonsmeier said that that was a class A commercial license that eventually went to court. Another one also had been operated in the town that also went to court.

ZBA member Jeff Link indicated that he spoke with two of the adjoining property holders (Johnson, Paul) and they indicated that they had no problem with this. Walt Simonsmeier said that all he needed to know was whether this Class C license is OK. The Public Hearing was closed at 7:35PM.

The Board was reminded that this request is for a private use license, and it is important to differentiate this from a commercial use. There was a comment made about setting precedent, and whether this could happen in a hamlet area. The applicant stated that this wouldn't happen because DEC controls where licenses are permitted.

A SEQRA determination is not required for this project.

Jeff Lick moved that this property can have a Class C Shooting Preserve as an accessory use to the house, as it is limited to non-commercial use and the DEC deems it acceptable. This will allow one additional month of hunting on the

property and the release of birds on the property. This was seconded by Kary Jablonka. This carried unanimously.

**JULIE FENSTER-REQUEST FOR A VARIANCE IN ORDER TO PUT IN A SWIMMING POOL ON HER PROPERTY ON OLD RT. 66
PUBLIC HEARING**

Cynthia Elliot submitted new maps with the pool and its dimensions as it relates to the property lines and the postal receipts. The request is for a 10' rear yard variance and a 20.11' side yard variance. Although the code requires 50' setbacks, the overhead utility lines prevent this from happening. The Public Hearing was opened at 7:46PM

Joseph Briggs, who lives next door, asked to see the map. He wondered if an accessory building or lights would be putt in. Ms. Elliot stated that the pool will have the required fence and alarms, but no structure, and nothing was said about lighting. Some landscaping will be done. The Public Hearing was closed at 7:54PM.

The Board reviewed the criteria for a variance: Is this a substantial change? Will it substantially change the area environment? Is this an undesirable change? Is there an alternate way that this change can take place? And is this self-created? All of the responses were in the negative. The Short Form SEQRA application, which shows no significant adverse effects to the following: air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems was reviewed. Also, there are no aesthetic, agricultural, archaeological, historic, or other natural or cultural resources or community or neighborhood character concerns. There are no significant effects to vegetation or fauna, fish, shellfish or wildlife species, significant habitats or threatened or long or short-term effects identified. Since this is the case, JP Henkel moved that there is no significant adverse environmental impact with this project, and should be accepted. This was seconded by Jeff Lick. Kary Jablonka moved that a 10' rear yard variance and a 20.11' side yard variance be approved. Adrian Ooms seconded this motion and it carried unanimously.

The meeting was adjourned at 8:00PM.

Respectfully submitted,

Mitchell Khosrova, Deputy Chairman

Marilyn Cohen, clerk

RESOLUTION LINCK-INTRIERI
TOWN OF CHATHAM ZONING BOARD OF APPEALS
July 22, 2010

The Zoning Board of Appeals of the Town of Chatham hereby Finds and Determines as follows:

WHEREAS, Larry and Kimberly Intrieri (the "Landowner") own a certain 1.8 acre parcel of land located at 3933 Route 203, Town of Chatham, NY bearing tax map #: 24.5-1-54, and which is located in a Hamlet-1 (H-1) zone as that term is defined in the Town Code of the Town of Chatham; and

WHEREAS, the Code Enforcement Officer for the Town of Chatham ("CEO") received a complaint from Peter and Catherine Link ("Applicants") alleging that Mr. Intrieri, in addition to legally utilizing such real property as his primary residence in violation of the Town Code of the Town Chatham both, historically and currently, 1) maintained a storage area for tires, rims, plastic containers, metal cans, pallets, etc.; 2) parked his 18-wheeler truck, trailers, a payloader and 2 dump trailers thereon, allegedly idling the truck(s); 3) allegedly utilized the property as a commercial trucking or other commercial activity; and 4) maintained the above use which emits excessive noise, vapor and other emissions, smog and toxins into the air and the ground water. A copy of such complaint, dated February 11, 2010 is attached hereto and made a part hereof as Exhibit "A"; and

WHEREAS, the CEO investigated such complaint and determined that the storage of the tires, rims, etc., under the first above allegation amounted to the storage of junk and that same must be removed, but also determined that no other violation of the Town Code existed on the subject matter property. A copy of such written determination, dated February 22, 2010 is attached hereto and made a part hereof as Exhibit "B"; and

WHEREAS, the Applicants appealed such decision of the CEO to the Town Zoning Board of Appeals, seeking an interpretation of the Town Code in connection with the

aforementioned CEO's decision. The Applicants alleged that the use of the parcel as described above violated numerous sections of the Town Code including 180-10 Uses in an H-1 zone, 180-15 Uses in a Business (B) zone, 180-16 Uses in an Industrial (I) zone, 180-29(A), 180-29(A)(3), 180-29(A)(4), 180-29(B) and 180-29(C) Home Occupation. A copy of such Appeal, dated March 19, 2010 is attached hereto and made a part hereof as Exhibit "C"; and

WHEREAS, the Applicants did not appeal that portion of the CEO's determination that the junk existing on the property must be removed, and

WHEREAS, the Premises are located in an H-1 zoning district which allows Home Occupations as a permitted use under Section 180-10; and

WHEREAS, in accordance with 6 NYCRR § 617.5(c)(12) & (13), this action is considered a Type 2 action under the New York State Environmental Quality Review Act ("SEQRA") and is therefore exempt from environmental review; and

WHEREAS, a referral to the County Planning Board pursuant to Section 239-1 and 239-m of the General Municipal Law is not required herein since the interpretation of a zoning code is not an action which is subject to such referral under the definitions therein; and

WHEREAS, Home Occupation is defined in the Town of Chatham Code Section 180-4 as "Any occupation, business or professional activity that results in a product or service, that is conducted in whole or in part in a dwelling or residential accessory building (a building accessory to a dwelling) and that is clearly subordinate in space utilization and intensity to the residential use of the lot."

WHEREAS, the ZBA held a duly noticed and published public hearing herein on May 27, 2010 at which legal counsel for the Applicants presented the appeal and its issues to the ZBA, several members of the public testified both in favor of the appeal and against it and the Landowner testified regarding his use of the subject matter property. The ZBA also cross-examined Applicant's counsel, the Landowner and several members of the public who testified,

including the CEO regarding the basis for his interpretation. A copy of the minutes of such public hearing is attached hereto and made a part hereof as Exhibit “D”; and

WHEREAS, following the close of the public hearing the ZBA conducted an in-depth discussion and analysis of the above facts, issues, testimony and the contents and definitions within the Town Code, and

WHEREAS, six members of the Board voted that the use was not an Accessory Use as that term is defined in the Town Code since it is not “A use or structure on the same lot with and of a nature customarily incidental and subordinate to the principle use or structure.”. It was determined that the primary use of the parcel residential and the storage, parking and use of several pieces of equipment, including an 18-wheeler truck and two dump trailers, and a large construction pay loader cannot be considered to be customarily and subordinate to the residential use. Additionally, such use was and is of greater intensity than the residential use thus such use is not a Home Occupation since the use was and is not “...clearly subordinate in space utilization and intensity to the residential use of the lot.”, due to the fact that a) the lot on which the use is and has occurred is approximately 1.8 acres; b) the storage, parking and use of several pieces of equipment, including an 18-wheeler truck and two dump trailers, and a pay loader, c) none of the above activities were conducted in whole or in part within the home on the property, and d) the level of activity based upon the number and type of vehicles and equipment is considered conducting a commercial activity or business, and

WHEREAS, one member of the Board opined that the use was a Home Occupation since in his opinion the use was subordinate in space utilization and intensity to the residential use of the lot. That voting member of the ZBA further considered that the actions of creating proposals and doing billing in the residence at the subject matter residential premises was not the product or service of the business, but rather a ministerial function and the ‘business’ herein was merely an address.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the ZBA finds that pursuant to Section 180-37 of the Town Code, storage of trailers may not occur in the front yard, which it hereby interprets to be the front setback as that term is defined in the Code, and

BE IT FURTHER RESOLVED, that the ZBA finds that fumes allegedly emitted by the idling trucks cannot be deemed to be a violation of Section 180-33 of the Town Code since the evidence produced during the public hearing revealed that a) the idling occurred for no more than 5 minutes on any given day; b) many neighbors testified that the idling did not cause a problem nor was it objectionable; and c) the trucks meet CT state emission standards. The ZBA acknowledges that some neighbors found the idling/fumes objectionable, however, the weight of evidence weighs in favor of the determination set forth herein, and

BE IT FURTHER RESOLVED, that the ZBA finds that the Landowners' storage and personal use of several snowmobiles is permitted and finds further that there was no evidence that the Landowners conducted a snowmobile repair business; and

BE IT FURTHER RESOLVED, that the ZBA finds that the small Ford Tractor utilized on the property by the Landowners is not a commercial use and was in fact used for personal work around the house and for yard and other residential work and was accessory use to the residential use; and

BE IT FURTHER RESOLVED, that the ZBA hereby further finds and determines that the use, as testified to and based upon the facts that a) the large construction pay-loader, owned by a corporation and not the individual Landowners, was located on the property; b) the Landowner testified that his construction equipment was kept at the house between jobs; c) the property was used as a business storage area; d) all the business and corporate records were kept and maintained in the house, all of which revealed that the business location was at the subject matter real property, is a use that is not contemplated by the definition of an Accessory Use or a Home Occupation as defined in the Chatham Town Code and thus is a commercial use which is

not permitted within the Hamlet-1 (H-1) zone since the purpose and definition in the Town Code of the H-1 district is "a density of family living that is normally found in small villages" and the storage of large trucks and construction equipment is not consistent with that purpose; and

BE IT FURTHER RESOLVED, that the ZBA specifically finds that the determinations made herein are to be narrowly construed to the specific set of facts of the within appeal and should have no precedential value except in closely analogous situations, and

BE IT FURTHER RESOLVED, that the secretary of the ZBA is directed to file this Resolution with the Town Clerk within five (5) business days.

<u>ZBA Members</u>	<u>Aye</u>	<u>Nay</u>
David Everett	<u>ABSENT</u>	
JP Henkel	<u>X</u>	<u> </u>
Robert Leary	<u>X</u>	<u> </u>
Kary Jablonka	<u>X</u>	<u> </u>
Adrianus Ooms	<u>X</u>	<u> </u>
Mitchell Khosrova	<u>X</u>	<u> </u>
Jeff Lick	<u>X</u>	<u> </u>

By a vote of 6 to 0, the interpretation of the CEO is hereby reversed.

TOWN OF CHATHAM
September 23, 2010

ZONING BOARD OF APPEALS
FINAL COPY

MEMBERS PRESENT:

Mitchell Khosrova
Robert Leary
JP Henkel
Adrian Ooms
David Everett, Chairman(7:25)
Jeff Lick
Tal Rappleyea, Atty.

MEMBERS ABSENT:

Kary Jablonka

Public Present:

Catherine Linck
Peter Linck
Andrew Gilchrest, Esq.
Paul Freeman, Esq.

The September 23, 2010, Zoning Board of Appeals meeting was called to order by Deputy Chair Mitch Khosrova at 7:03PM with a quorum present. The Pledge of Allegiance was recited. Mitchell Khosrova said that in the absence of ZBA clerk Marilyn Cohen, approval of the minutes from August would be deferred to the next meeting.

LAWRENCE AND KIM INTRIERI - REQUEST FOR RE-HEARING

Mitch Khosrova began by explaining the process for a re-hearing and Tal joined in noting that any decision must be unanimous. Mr. Gilchrest, representing the Intrieris provided a number of documents related to the 1996 stipulation order that was never signed. Mitch Khosrova asked why it hadn't been signed, which no one knew the answer to. Jeff Lick asked, if Mr. Intrieri had abided by the stipulation order as if it had been signed, and Mr. Gilchrest said that he did not know. The Board noted that the evidence showed continuing negotiations by both parties after the last court date.

Atty. Paul Freeman, representing the Lincks, stated that case law regarding unsigned binding agreements show that it must be a very specific transcribed hearing. Judges notes and other written evidence has not been admitted to show an agreement existed. He also noted that the recent hearing was also based on significant new information and a change in circumstances, including registration of the vehicles, corporate records, etc. This new information would make any prior agreement inapplicable to the new situation.

Jeff Lick noted that he believed Mr. Intrieri did not abide by the agreement based on evidence submitted in the hearing. JP Henkel said that Mr. Intrieri represented to the ZBA that the agreement had not been finalized.

Atty. Andrew Gilchrest requested that the board investigate the historic record, including speaking with the former town attorney and others involved in the historic case. Mitch Khosrova said that it was not the responsibility of the ZBA to present evidence, and wondered if any information learned would have an influence on the boards decision. David Everett asked about the change in circumstances. Paul noted that some of the issues did not appear to have been addressed in 1996.

At 8:00 David Everett made a motion to go into Executive Session to discuss the current lawsuit pending against the ZBA, which was seconded by Mitch Khosrova and was approved unanimously. The public was asked to wait outside the meeting room. At 8:25 David Everett made a motion to go back into a general session, Mitch Khosrova seconded the motion and it passed unanimously. The public was invited to rejoin the meeting.

The Board discussed whether it had enough information to make a decision on the request for a re-hearing or whether it needed more information. The Board decided it had enough information to make a decision.

Mitch Khosrova and David Everett summarized the boards thinking with the following points.

- The letters and papers submitted were already documents the board had seen and considered, and does not believe there is anything new to consider.
- Mr. Intrieri stated in a previous ZBA meeting that there was no agreement.
- Testimony in previous meetings gave evidence that Mr. Intrieri was not behaving in a way that was in accordance with the purported stipulation agreement.
- Documents show that Mr. Intrieri was still negotiating the proposed stipulation agreement after the meeting in the Judge's Chambers and never signed it.
- Even if there was an agreement in 1996, there was sufficient evidence to support the ZBA's decision, and would suggest no change in the outcome.
- If there was an agreement, there was no way for the ZBA to know what it was (i.e. a map is referred to but not in evidence).

David Everett asked that Atty. Tal Rappleyea document all of these points related to the boards thinking and that a formal decision would be made next month. The matter was tabled until next month's meeting.

The meeting was adjourned at 8:40.

Respectfully submitted,

Jeff Lick, acting clerk

David Everett, Chairman

Joining Implementation Committee

10/25/10

Jim Temple, Bob Linville, Donna Stanson, Marilyn Cohen
Michele, Anne Everett (7:15)

J. L. - notes from last mtg. got lost between Jean's house
Jean's house

D. L. - scribble for the night

J. L. - first thing to discuss is the attorney

K. L. interviewed 3 attorneys: David Brennan + Rob McCreary & Je
all. (suggested by Anne Everett)
John

extensive environmental + joining exp.

tried to meet w/ Sal - e-mail exchange - he had conflicts +
had not met face to face - he did submit answers to questions

M. K. - sent written questions as last week

B. L. - questions had to do w/ scope of experience - got good
sense of depth of each + availability of each + are
prepared to make recommendation - e-mailed +
telephoned before mtg tonight - prepared to write a
letter to town board + we are unanimous in believing
David Brennan would be the best - Michel knows him

M. K. - has a great reputation + a pleasure to work with
wouldn't charge us for any travel time
- \$185/hr.

J. L. do we have to provide him w/ supplies

M.K. - direction committee wants to go to him - is why he is good

letter needs to be written by chair

B.L. - will draft a letter & J.L. can submit letter

J. L. - motion in order to hire this person

M.C. - isn't this letter just a request?

B.L. - no more than that

M.K. - committee discussed at length that we need an attorney because of the drafting that will be going on

J.L. - have we asked the Town Board to set aside enough money?

M.K. - either way - I'm this committee has been charged w/ something - then the board has the right to decide they charged us with giving them a final product - we don't have to check in with them every day.

J.L. I gave them an estimate on what was ~~needed~~

②

on the Comprehensive Plan

(Mitch Brown & Bob were the committee)

B.L. - we discussed budget restrictions & where their rates were & if there were cap.

M.K. there has been a lot of discussion about money & we're putting down good money after good money - if there's no money - that's their decision - it's not unusual to hire an attorney when we're drafting laws

all of the attorneys (except Ted) did not feel it was appropriate to have a consultant at this time - it would sometimes cause further -

D. Brunson - since our Comp. Plan was so specific no consultant is necessary

though we'll need more than 12 steps in 2011

J.1. - first group of priorities?

M.K. we would have our first product w/ input & see what the Town Board thinks -

impressed that the lawyer would lead us through this

David's experience in drafting laws from Comprehensive Plan is voluminous

J.1. - how do we know his experience won't give us headaches

J.B.S. - my concern his experience won't fit
Chatham

J.L. - could you struggle with these issues when
you try to enforce them?

D.S. - he answered well
he was willing to work w/us
not the cheapest

D.E. - none of our concepts ^{in Comp Plan} are new
seems to be competent when appearing in front of zoning board

D.S. - is there a conflict ^{of interest} issue here?

B.L. - will have our Z.C. recommend we have
D. Brenner assist in ~~the~~ using Comp Plan to
create zoning laws for Town of Chatham

J.L. - took stab at part of process in flow chart
I assume an attorney has a process to take
over where this plan leaves off - my concern is
about cost

D.E. ~~for~~ where are getting copies of comp. plan
where does this stand?

M.K. - I printed it from the web & realized it's a draft & where ~~the~~ are the attachments

J.L. - they heard that & are working on getting us some copies

Jean was going to bring us maps tonight
& copy of plan on the website is marked as final

~~W.E.~~ - ~~Disappointed~~ I'm disappointed

M.K. - we were asked to volunteer & we have no product

we have to work off the same info

B.L. - should we have copies of the zoning?

D.E. - every member should have a copy of the zoning done

I'm shocked to come to the meeting & not have a copy of the camp plan
is the full plan on the website?

J.L. - part I in color

part II - I don't know

M.C. - is part II even approved?

JJ - Imp. schedule in book ~~is~~ has things in color
maps are in color you need this

I've been waiting to see what the hard
copy of the maps looks like

D.L. color coded

M.K. if we hire an attorney he needs a copy too

J.J. - correctional facility could only do black & white

P.E. - we spent 65,000 for a plant they can't
spend 400 on copying plans?

J.J. - I'll go bother him regarding them

M.A. - if the Town Board can't give us the
minimum comfort we need I don't plan
to waste my Monday nights.

J.J. spend my

P.E. - I would ask them to put this on their agenda
for discussion

M.K. I don't see why town board not make a
decision to give us copies of the map plan

(4)

You take a look at the strategies & see what would
be the easiest thing to do.

M.K. - I'm just frustrated. we need to get away
from politics here
we need to be on our own

J-7 - we need to take a hard stand. if we
don't have the materials -

M.K. - we need a ^{the} whole plan

D.E. - I'd like to start meeting every 2 weeks -
should have comp. plan here + go thru strategies
+ recommendations + discuss this + prepare to
have an attorney here

M.K. - I ~~know~~ totally agree - but how can we
do this if we don't have a copy

J-7 - I'll talk to Jerry as soon as I can get
hold of him

M.K. - I ~~can~~ don't feel we have to rely on them or
wait on them -

this committee is meeting - is going to
move ahead

M.K. - all attorneys said we have to meet more than once
a month.

mc. - We have a mandate that it has to be noticed

that means it is a standing meeting

M.K.

D.E. - you adopt a resolution & let them know what the meeting dates are

J.J. - when I'm talking to Jesse about getting the camp plan

M.C. - one of the meetings is a workshop meeting for the board

M.K. - I don't know if we want to go too far ahead

M.K. - we're in November & / planning & then December - do we want to start this now?

J.J. - I'm not here during the winter - Jan → March & half of April

I think ~~that~~ once we get started I think it's going to go easier

M.C. - for us to meet before the next Board meeting & continue productive

D.E. - ~~if we all meet~~ we need to get organized
first -

M.K. - I'm certainly not opposed & time a month

do you think we should start in December to go to every 2 weeks?

D.S. - do we have to go to the Board

B.S. - try to spin out

~~2nd Monday~~ Dec

2nd Wed. 12/8

4th Monday

next Mon. 12/22

J.S. - enabling strategies are in back of plan

we have to take these strategies + get them to a point where we can put them into the attorney's process

M.K. - the town approved a Comp plan - why should I be concerned about risks and rewards

J.S. - those are mine

All I want to do is remind the board of substantial risks & rewards

MK - if we get this & the draft, I guarantee
you we won't get an answer

I understand the politics that are involved
I am so worried about a political failure

J1 - if you need an enabling strategy

I'm not so sure we should be running to the
board - if we were the chosen people & been the
committee - that's why I didn't want people
here

J1 - whenever we come up with a consensus - new law
or changed law

just because we don't like something

B. L. -

D. L. - when we get to the final product - they have the
right to approve or disapprove

J1 - risks involved in implementing this plan were not
discussed in the development of this plan
cost

risks in terms of increased density

J.L. - have a definitive process that we should follow & take these strategies through

D.E. - take the plans go through the strategies - we have no authority to change it

J.L. - special requirements

M.K. - I don't want us to do the C.P. That's why I don't want the public there
you're going to have someone there & they're going to want to talk about it for four or five hours -

I am appalled that we have this open

we need a fiscal zoning law to implement the plan

D.E. - what you start out with is an existing zoning code, when you look at the plan - you may very well come out w/ a new zoning law

M.K. - the fiscal product is going to completely delete the current code

D.E. - look at strategies & create an outline / generic code

J1 - in Comp Plan there seems to be some
latitude in choosing strategies to get to...
so - we make those choices?

MK - we're going to be writing a law

J1 - when there is a menu of some things that we
would choose - we give him that

DS - can you give us an example of a definition
of an example that need to be redone

MK - the way the Courts write their laws -
there is no right nor wrong - when do we
put the most trust?

WQ -

J1 - the outline come from us, the attorney, or both

~~DS~~ ^{ing.} If quotes get into the paper I'm going to get
really pissed off.

My. adjourned @ 8:35

**TOWN OF CHATHAM
OCTOBER 28, 2010**

**ZONING BOARD OF APPEALS
FINAL COPY**

Members Present:

Robert Leary
Jeff Lick
Kary Jablonka
Adrian Ooms
Mitchell Khosrova
JP Henkel
David Everett, Chairman

Members Absent:

None

Public Present:

None

The October 28, 2010, Zoning Board of Appeals meeting was called to order at 7:00PM by Chairman David Everett. The Pledge of Allegiance was recited. Jeff Lick moved, and Kary Jablonka seconded that the July 22 minutes be approved. This carried unanimously. Bob Leary moved and Mitchell Khosrova seconded that the amended September minutes be approved. This carried with one abstention (Kary Jablonka).

Chairman Everett stated that at the September meeting the ZBA listened to Mr. Intrieri's request to appeal the decision approved in regard to his business located on Route 203. Attorney Rappleyea was asked to draft the resolution (attached) denying this appeal. As of this date, litigation papers have been filed against the ZBA, and Atty. Rappleyea has responded, and is awaiting a response from Atty. Gilchrest before this goes to the judge of the Supreme Court in Columbia County.

Kary Jablonka moved and Jeff Lick seconded that the resolution prepared by Atty. Rappleyea be accepted. This carried unanimously.

Because of Thanksgiving, the next ZBA Board meeting will be scheduled for November 29.

Jeff Lick moved and JP Henkel seconded that the meeting be adjourned. This carried. The meeting ended at 7:10pm.

David Everett, Chairman

Respectfully submitted,

Marilyn Cohen, clerk

**TOWN OF CHATHAM
DECEMBER 23, 2010**

**ZONING BOARD OF APPEALS
FINAL COPY**

Members Present:

Robert Leary
Jeff Lick
Kary Jablonka
Adrian Ooms
Mitchell Khosrova
David Everett, Chairman

Members Absent:

JP Henkel

Public Present:

Steven R. Anderson
Richard Karpinski

The December 23, 2010, Zoning Board of Appeals meeting was called to order by Deputy Chairman Mitchell Khosrova at 7:03 PM. The Pledge of Allegiance was recited. Chairman David Everett took over the meeting. Kary Jablonka moved and Jeff Lick seconded that the minutes from the previous meeting be approved. This carried unanimously.

**NEW CONCORD COMMUNITY CENTER- REQUEST BY THE SOCIETY OF
NEW CONCORD FOR A SPECIAL USE PERMIT WHICH WILL ALLOW THE
PREVIOUS DUTCH REFORMED CHURCH ON CR 9 IN NEW CONCORD BE
USED AS A COMMUNITY CENTER**

Steve Anderson and Rick Karpinski are representing the Society of New Concord. Currently the agreement is under a binder and the paperwork is being finalized for purchase of this property. Chairman Everett requested that a letter from the current owner be supplied from the present property owner giving authorization to the Society to be proceeding with this request. The intention of the Society is to continue to use the Community Hall for community functions, as per page 17 of the application. Most of the programs are educational and historical, and sometimes social. The plan is also to develop better uses for the sanctuary, such as concerts. Chairman Everett wondered if they would be renting the property for private functions. Mr. Anderson responded that they are patterning the usage after that of the Malden Bridge Community Center. Mr. Everett asked about parking. Much of the audience walks, and there is some angled parking in the front of the hall (between 10-15 spots). They currently hold about 4-6 events a year, and there has been no problem. Mr. Everett stated that parking would need to be designated on the site plan since there is about an 85 person occupancy. There was a question as to whether this group falls under the 501C3 designation. It does, which would limit the type of programs that the hall could be rented for. There also was a question as to modifications. There will be none done---just basic repairs. The closing will be conditioned on an environmental lien, which is being worked out presently by the attorneys. This request is for a Special Use Permit for the recreational building. It also was pointed out that one

of the adjoining properties (Polemis) is for sale. The Society reiterated that they wish to use this building (community hall) as it has been in the past, with three to four social events per year as well as some lectures. There might be some other events to recoup some of the operating costs, such as small weddings, funerals, chamber music events, but they don't expect more than 6 events a year. The Society indicated that they would be happy to live within some sort of a limit for activities.

The ZBA requested that an engineer look at the parking on the property, and that the group try to find a solution to mitigate parking for more spots than the property can hold by asking neighbors.

The Public Hearing will be set for the January, 2011 meeting. The County Planning Board and the Town Planning Board will be asked for input on this project.

The meeting was adjourned at 7:55PM.

David Everett, Chairman

Respectfully submitted,

Marilyn Cohen, clerk